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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

DMITRI VALLERVEICH TATARINOV,

Petitioner,

v.

**SUPERIOR COURT OF THE STATE OF
CALIFORNIA, COUNTY OF SAN DIEGO;
OFFICE OF THE CHIEF COUNSEL, DEPT.
OF HOMELAND SECURITY; U.S.
ATTORNEY, SOUTHERN DISTRICT; ICE
DETENTION & REMOVAL UNIT,**

Respondent.

07cv2033-L (NLS)

**STATE RESPONDENT'S POINTS
AND AUTHORITIES RE:
PETITIONER'S MOTION FOR
RELEASE**

On June 2, 2008, the Court set a briefing schedule regarding Petitioner Tatarinov's Motion for Order of Release. By this response, State Respondent hereby complies.

Petitioner Tatarinov asks this Court for an order releasing him from custody, based principally on his claims that his medical condition is poor and insufficiently treated, he is not a flight risk, he is not a danger to the community, and this Court has "found that Plaintiff has raised a serious legal issue whether he has raised a Gideon claim. . . ." (Petitioner's Notice of

1 Motion and Motion for Order of Release During Pendency of Habeas Corpus Proceedings at 1-2,
2 5.)

3 As set forth in our Motion to Dismiss, neither the named State Respondent, nor any other
4 official of the State of California, has any custody over Tatarinov. Accordingly, State
5 Respondent has no information regarding Tatatarinov's current medical condition or current
6 status as a flight risk. No state respondent has an official interest in Tatarinov's status as being
7 in the custody of immigration officials.

8 In our Response to This Court's Order Granting In Part and Denying In Part Ex Parte
9 Application, we described why Tatarinov has failed to set forth a valid *Gideon*^{1/} claim, because
10 he was represented by counsel during all of his state criminal proceedings.

11
12 Dated: June 9, 2008

13 Respectfully submitted,

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1. *Gideon v. Wainwright*, 372 U.S. 335, 83 S. Ct. 792, 9 L. Ed. 2d 799 (1963)

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Tatarinov v. Superior Court of the State of California, et al.**
No.: **07cv2033-L (NLS)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On June 9, 2008, I served the attached **state respondent's points and authorities re: Petitioner's motion for release** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West "A" Street, Suite 1100, San Diego, California 92101, addressed as follows:

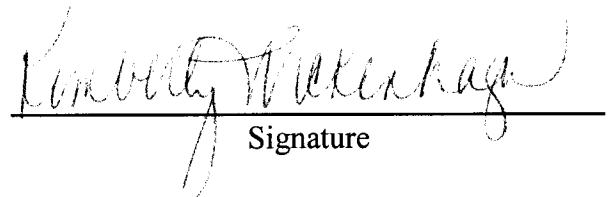
Patricia Lynn Jacks
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Samuel Bettwy
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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 9, 2008, at San Diego, California.

Kimberly Wickenhagen

Declarant


Signature